

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DONALD MORRIS LEE,)	
)	CASE NO. C14-5309-RSL-MAT
Petitioner,)	
)	
v.)	ORDER RE: PETITIONER'S
)	PENDING MOTIONS
PATRICK GLEBE,)	
)	
Respondent.)	
_____)	

This is a federal habeas action proceeding under 28 U.S.C. § 2254. Currently pending before the Court are petitioner's motions for release, for production of documents, and for an evidentiary hearing. Respondent has filed a brief in opposition to petitioner's motions. The Court, having reviewed petitioner's motions, respondent's response thereto, and the balance of the record, hereby finds and ORDERS as follows:

(1) Petitioner's motion for release on bail (Dkt. 12) is DENIED. Bail for a prisoner seeking post-conviction release is reserved for "extraordinary cases involving special circumstances or a high probability of success." *United States v. Mett*, 41 F.3d 1281, 1282 (9th Cir. 1994); *Land v. Deeds*, 878 F.2d 318 (9th Cir. 1989) (per curium). Special circumstances include a "serious deterioration of health while incarcerated and unusual delay in the appeal

01 process." *Mett*, 41 F.3d at 1282 n. 4, citing *Salerno v. United States*, 878 F.2d 317 (9th Cir.
02 1989).

03 In this case, petitioner fails to establish such special circumstances. Petitioner also
04 fails to demonstrate a high probability of success on the merits of his federal habeas claims.
05 Accordingly, petitioner's request for release pending resolution of this collateral attack on his
06 state court conviction is without merit and must be denied.

07 (2) Petitioner's motions for production of documents (Dkt. 14) and for an
08 evidentiary hearing (Dkt. 15) are STRICKEN. Petitioner seeks an Order from this Court
09 directing various individuals and entities to produce documents which petitioner believes are
10 necessary for him to effectively litigate this federal habeas action. Petitioner also asks that the
11 Court hold an evidentiary hearing in this matter. Petitioner's requests are premature.
12 Respondent has yet to file an answer to petitioner's federal habeas petition. Respondent will
13 submit in conjunction with his answer the portions of the state court record which he deems
14 relevant to resolution of petitioner's federal habeas claims. Only after the Court reviews
15 respondent's answer, and the portions of the state court record submitted with the answer, will it
16 be able to assess whether an evidentiary hearing is required and whether discovery should be
17 authorized. Petitioner's motions for production of documents and for an evidentiary hearing
18 are therefore stricken without prejudice to petitioner renewing the motions at a later date.

19 DATED this 6th day of June, 2014.

20 

21 Mary Alice Theiler
22 Chief United States Magistrate Judge